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REMARKS

1. Applicant thanks the Examiner for his findings and conclusions.

- 5 2. Respectfully, Applicant deems the restriction requirement to be improper. The restriction requirement is traversed due to search requirements, due to independent invention requirements, and under public policy grounds, as described *infra*.

10 Search

First, MPEP 803 states that "if the search and examination of all the claims in an application can be made without serious burden, the Examiner must examine them on the merits, even though they include claims to independent or distinct inventions." The examiner has not demonstrated any serious burden of
15 examination. Indeed, all elements of Claim 41 have been previously searched. In the previous office action, the Examiner pointed out the allowability of Claim 41 if rewritten in independent form to incorporate the subject matter of the base claim and any intervening claim. In the RCE, the Applicant amended Claim 41 to incorporate all of the limitations of parent Claim 36 and intervening Claim 37. No
20 new elements were introduced into Claim 41. Hence, all elements of Claim 41 have been previously searched. Therefore, a new search for the elements of Claim 41 is not required.

Independent Inventions

- 25 Second, Article 35 U.S.C. § 121 states that restriction is permitted only if an application contains two or more independent and distinct inventions. The restriction requirement is traversed since the examiner did not demonstrate that the claims contain two or more independent inventions. MPEP 802.01 defines

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the term independent as meaning that there is no disclosed relationship between the two or more subjects, that is, they are unconnected in design, operation, or effect. Two or more inventions are related and are not independent if they are disclosed as connected in at least one of design, such as structure or method of manufacture; operation, such as function or method of use; or effect. Thus, under MPEP 802.01, the Examiner must show that the inventions are unrelated in all of the following: design, operation, and effect. The MPEP cites the following examples of independent inventions: an article of apparel and a locomotive bearing. Another example is a process of painting a house and a process of boring a well. In this spirit, it is difficult to understand the office action's reasoning that the stated claim groups are independent. Claim 41 and Claim 1, which are placed into separate groups, use nearly identical language and therefore quite clearly evidence an operational connection. For example, Claims 1 and 41 both require the four steps of obtaining data, applying text patterns, providing a second data file, and generating grammatical sentences. Claim 41 merely further describes the step of obtaining data. A further description is not an independent invention as described above. As a second example, Claims 14 and 41 present the same or similar subject matter in different claim modalities. Claim 14 is merely a means plus function modality of Claim 41. Both Claims 14 and 41 require the four steps of obtaining data, applying text patterns, providing a second data file, and generating grammatical sentences. Claiming subject matter under different modalities does not constitute an independent invention as defined in MPEP 802.01. Still further, Claims 20 and 36 also require the four steps of obtaining data; applying text patterns, providing a second data file, and generating grammatical sentences. Again, these four steps are in common with the four steps of Claim 41. Applicant asserts that Claims 1, 14, 20, and 36 are not patentably distinct from Claim 41.

Further, the Examiner's placement of Claim 41 and Claims 1-40 and 42 into different classes does not necessarily mean the inventions are distinct.

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Public Policy

Thrd, it is in the interests of the Applicants, the Patent and Trademark Office, and the public to examine the inventions in one application. There will likely be
5 considerable overlap in the examination and searching needed by the Office, or in the analysis of patents by the public, between applications or patents on the two inventions, as well as needless duplication of files by the Office. Additionally, of course, the Applicant is subjected to duplication of time, costs, and Government fees. Accordingly, the Applicant requests reconsideration and
10 withdrawal or modification of the requirement under 37 C.F.R. § 1.143.

Accordingly, the election requirement is deemed to be improper for the above described reasons of search requirements, independent invention requirements, and public policy. The Examiner is respectfully asked to remove the restriction
15 requirement.

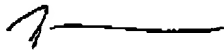
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CONCLUSIONS

In view of the above, this application is deemed to be in allowable condition. The
5 Examiner is therefore earnestly requested to allow the application to pass to
issue as a United States Patent. Should the Examiner have any questions
regarding the application, he is respectfully urged to contact Applicant's attorney
at (650) 474-8400.

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Respectfully submitted,



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